

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**FRANCISCO CAYENA,
*Petitioner,***

-versus-

**G.R. No. 76137
February 18, 1991**

**NATIONAL LABOR RELATIONS
COMMISSION, CEREAL LAND INC.
and/or MR. ALFONSO LIM BOK, SR.,
Manager/Owner, and MAGUINDANAO
PROGRESS ENTERPRISES, and/or MR.
ALFONSO LIM BOK, JR., alias JIMMY
LIM,**

Respondents.

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DECISION

FERNAN, C.J.:

Challenged in this petition for certiorari as having been issued in grave abuse of discretion are the resolutions of public respondent National Labor Relations Commission in NLRC Case No. RAB X-120046-83, as follows:

- a) Resolution dated January 29, 1986 dismissing the appeal in the abovementioned case filed by the petitioner Francisco Cayena for allegedly having been filed out of time; and
- b) Resolution dated July 23, 1986 denying his Motion for Reconsideration dated April 22, 1986 for lack of merit.^[1]

This case began in 1983 when Francisco Cayena filed a Complaint for Illegal Dismissal with prayer for payment of termination pay and other money claims before the Labor Arbiter of the Regional Arbitration Board, Branch No. 10, Cagayan de Oro City against his alleged employers. He claimed that he was originally employed by respondent Cereal Land, Inc. in 1972 as a warehouseman/caretaker of its bodega in Manday, Cotabato City. In 1975, he joined respondent Maguindanao Progress Enterprises managed by Alfonso Lim Bok, Jr. and used the same bodega. In short, he was an employee of both respondent firms which are family corporations headed by Richard Lim as president.

In their motion to dismiss, private respondents denied that Cayena was ever their employee. They alleged that Cayena was a regular member of the Civilian Home Defense Forces in Cotabato City under Battalion Commander Richard Lim until September 7, 1983 when he obtained a sick leave of absence on account of his pulmonary tuberculosis. As a CHDF member, Cayena was assigned and detailed in Manday to oversee the protection of all private establishments in that area, one of which was the warehouse building belonging to private respondents. According to private respondents, they took pity on Cayena and gave him P450.00 as a monthly allowance to supplement his meager P200.00 allowance from the military. That P450.00 was an honorarium and not a salary. Cayena's removal from respondents' premises on September 7, 1983 was due to his own request for a leave of absence which was duly approved by Richard Lim, his battalion chief.

On February 29, 1984, the Executive Labor Arbiter Ildefonso G. Agbuya of the Regional Arbitration Branch No. 10, NLRC, Cagayan de Oro City rendered judgment the dispositive portion of which reads:

“IN VIEW OF THE FOREGOING, Respondent Cereal Land Inc. and/or Alfonso Lim Bok, Sr., Manager/Owner, Maguindanao Progress and/or Alfonso Lim, Jr., alias Jimmy Lim/ and/or Richard Lim are hereby ordered to pay Complainant Francisco Cayena the total amount of P15,303.25 representing his Emergency Cost of Living Allowance, 13th month pay, Service Incentive Leave, legal holiday pay and separation pay.”^[2]

However, on May 18, 1984, the same Labor Arbiter issued an order reopening the case upon the filing of a Petition for Relief from Judgment and/or Motion for Reconsideration by the private respondents. On September 20, 1984, he issued a decision reversing his previous one. Thus:

“IN VIEW OF THE FOREGOING, the complaint of Francisco Cayena against respondents Cereal Land Inc. and/or Mr. Alfonso Lim Bok, Sr. Manager/Owner and Maguindanao Progress Enterprises and/or Alfonso Lim Bok, Jr. alias Jimmy Lim is hereby dismissed with prejudice for lack of employer-employee relationship.”^[3]

On appeal by petitioner Cayena, the National Labor Relations Commission issued the two (2) questioned resolutions dated January 29, 1986 and July 23, 1986. Hence, this petition for certiorari seeking the nullification of said resolutions and the reinstatement of his appeal before the NLRC for a decision on the merits.

We rule for petitioner Cayena. The questioned resolutions must be set aside, not for the reason that there was grave abuse of discretion, but because the decision of the Labor Arbiter sought to be appealed before the Labor Tribunal was a nullity for lack of jurisdiction.

From the very start, the instant case has been embroiled in procedural errors committed by both parties and further exacerbated by the Labor Arbiter. Alleging failure of due process because of the absence of notice of hearing, private respondents succeeded in inveigling an order from the Arbiter reopening an otherwise final and executory decision. It should be noted that private respondents received notice of the adverse February 29, 1984 decision on March 9, 1984. Eleven days later, or on March 20, 1984, they filed a pleading

cleverly denominated as “Petition for Relief and/or Motion for Reconsideration” in an attempt to evade the strict application of the rules on appeal. Respondents’ failure to timely seek a review of the Arbiter’s judgment through an appeal to the NLRC rendered the judgment final and executory with the lapse of the ten (10)-day statutory period.

It is axiomatic that a judgment, whether correct or not, becomes final when the litigant does not appeal said judgment and the court is without jurisdiction over the case once its judgment has assumed the character of finality. The court which rendered it cannot lawfully modify or alter the same, most especially when the changes are material and substantial. This rule is peremptory even if the judgment is erroneous in the view of the magistrate looking at it.^[4]

Thus, when the Labor Arbiter acceded to private respondents’ petition and reopened the illegal dismissal case, he acted without legal authority. The new decision dated September 20, 1986 absolving private respondents completely from their liability to petitioner was utterly void. Essentially therefore, there was no appealable judgment to speak of since the second decision was non-existent in contemplation of law.

Even on the assumption that the petition for relief and/or motion for reconsideration was seasonably filed and based on a valid ground, this particular pleading is unavailing as a remedy. The pertinent rule specifically states that “no motion for reconsideration of any decision of the Labor Arbiter shall be entertained unless in the nature of an appeal to the Commission.”^[5] While it is conceded that the Rules of Court could be applied in a suppletory manner and could therefore justify the filing of a petition for relief, in this particular instance, that procedural recourse was fatally flawed for the basic reason that the labor rules themselves have provided a specific procedure to be followed. Hence, the next proper step should have been for the Labor Arbiter to treat said pleading as an appeal and certify this to the NLRC.

WHEREFORE, for the foregoing reasons, the instant petition is granted. The assailed resolutions dated January 29, 1986 and July 23, 1986 are **SET ASIDE**. The decision of the Labor Arbiter dated

September 20, 1984 is declared null and void and his original decision dated February 29, 1984 is hereby ordered REINSTATED. This judgment is immediately executory. Costs against private respondents.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin and Davide, Jr., JJ., concur.

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- [1] Rollo, Annexes A and B, pp. 10 and 11.
[2] Rollo, p. 70.
[3] Rollo, p. 6.
[4] Republic vs. Hon. Reyes, Nos. L-30263-65, October 30, 1987, 155 SCRA 313; Mutual Security Insurance Corp. vs. Court of Appeals, No. L-47018, September 11, 1987, 153 SCRA 678. See also Pedro Lim vs. Jabalde, No. L-36786, April 17, 1989.
[5] Sec. 9, Rule VII, Sec. 2, Rule XV, Rules of the NLRC; Rollo, p. 12.